

Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address  KRISTINE A. THAGARD, #94401 kthagard@marshackhays.com TINHO MANG, #322146 tmang@marshackhays.com MARSHACK HAYS LLP 870 Roosevelt Irvine, California 92620 Telephone: (949) 333-7777 Facsimile: (949) 333-7778  <input type="checkbox"/> Individual appearing without attorney <input checked="" type="checkbox"/> Attorney for: Richard A. Marshack, Chapter 7 Trustee	FOR COURT USE ONLY
<b>UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA - SANTA ANA DIVISION</b>	
In re: NORTHERN HOLDING, LLC          Debtor(s).	CASE NO.: 8:20-bk-13014-MW CHAPTER: 7          <b>NOTICE OF SALE OF ESTATE PROPERTY</b>

<b>Sale Date:</b> 02/09/2022	<b>Time:</b> 2:00 pm
<b>Location:</b> 411 W. Fourth Street, Santa Ana, CA 92701 - Ctrm: 6C	

**Type of Sale:** ☒ Public ☐ Private **Last date to file objections:** 01/26/2022

**Description of property to be sold:**

2380 Live Oak Road, Paso Robles, CA ("Live Oak Property") - APN: 026-342-039 - Full legal description contained in Motion filed on January 19, 2022, as Dk. No. 278.

**Terms and conditions of sale:**

(1) entry of a Bankruptcy Court Order approving the sale free and clear of all liens; (2) property sold in "AS-IS" "WHERE IS" condition; (3) no contingencies. The Motion seeks approval for the Trustee to sell the Property on substantially the terms and conditions set forth in the Purchase and Sale Agreement ("PSA") and the Amendment to PSA, a copy of which is attached to the Motion as Exhibits "1" and "2."

**Proposed sale price:** \$ 9,100,000.00

**Overbid procedure (if any):** See attached Overbid Procedures.

Order approving overbid procedures entered on October 20, 2021 as Docket No.  
238.

**If property is to be sold free and clear of liens or other interests, list date, time and location of hearing:**

February 9, 2022 at 2:00 p.m.  
United States Bankruptcy Court, Central District of California  
Santa Ana Divison  
411 W. Fourt Street, Santa Ana, CA 92701  
Courtroom 6C\*

\*Special COVID-19 procedures may apply. Please refer to the Court's website for more details.

**Contact person for potential bidders (include name, address, telephone, fax and/or email address):**

Agents: Kevin Otus; Tel. (415) 317-4150; Email: kotus@thinkonyx.com  
Jeff Azuse; Tel. (847) 418-2703; Email: jazuse@hilcoglobal.com

Date: 01/18/2022

## Auction and Overbid Procedures

While Trustee is prepared to accept the offer for the Live Oak Property as set forth in this Motion, Trustee is also interested in obtaining the maximum price for the Live Oak Property.

Accordingly, the Court has authorized the implementation of the overbid procedure regarding the sale of the Property on the following terms, pursuant to the Bid Procedure Order filed on October 20, 2021, as Dk. No. 238, and pursuant to the terms of the PSA, on the following terms:

Any potential overbidder is encouraged to obtain a copy of the Motion and contact Trustee's counsel prior to the hearing. The Live Oak Property will be sold subject to overbid at an open auction (the "Auction") to be conducted by Trustee before the Court at the time that this Motion is heard. Trustee has established the following overbid procedures, which shall govern any bidding:

The proposed bidding procedures are set forth in ¶ 6.4.2 of the PSA, which is reproduced in full below:

(a) If there are no overbids, Seller will recommend and request the approval of the sale to Buyer upon the terms and conditions contained in this Agreement.

(b) In order to overbid, any prospective bidder shall be required to establish to the satisfaction of Seller its financial ability to successfully consummate the transaction. This shall include as conditions of eligibility to bid a non-refundable deposit equal to three (3%) of the Buyer's purchase offer, evidence of availability of cash to close, and the execution of a form of Purchase Agreement substantially the same as this Agreement. The only changes to it should be the bid price, the identity of the bidder and provision made for compliance with these Bidding Procedures.

(c) If the Court conducts an auction of the Property, the initial minimum overbid shall FIFTY THOUSAND DOLLARS (\$50,000.00) higher than Buyer's agreed Purchase Price plus the Breakup Fee, defined below, and thereafter will go up in TWENTY-FIVE THOUSAND DOLLAR (\$25,000.00) increments.

(d) If Buyer is not the successful bidder at the auction due to an overbid ("**Overbid**"), Buyer shall be entitled to receive the amount of its Due Diligence costs (not to exceed ONE HUNDRED SEVENTY FIVE THOUSAND DOLLARS (\$175,000.00) plus a break-up fee of TWO HUNDRED TWENTY FIVE THOUSAND DOLLARS (\$225,000.00) (collectively "Breakup Fee").

(e) The Buyer's right to a Breakup Fee is contingent on: (i) Buyer being a ready, willing and able buyer for the Property at the time the Bankruptcy Court conducts the last hearing on the sale of the Property; (ii) Buyer has completed Buyer's Due Diligence, waived in writing all contingencies and confirmed in writing that all approval periods have expired; and (iii) Buyer is overbid and the successful bidder in fact purchases the Property for the sum it bids at the hearing

1 (f) Buyer shall provide its Due Diligence costs, with backup  
2 documentation, to Trustee within five (5) days after the expiration of the Due  
3 Diligence Period. The Breakup Fee shall be paid within seven (7) business days of  
the close of the Property with the successful bidder

4 (g) If there is an overbid of at least NINE MILLION FIVE HUNDRED  
FIFTY THOUSAND DOLLARS (\$9,550,000.00) and Buyer is the successful  
5 bidder, Buyer shall be entitled to a credit to the overbid purchase price in the amount  
of the Breakup Fee. If Buyer is not the successful bidder, Buyer agrees that its last  
6 bid shall serve as a back-up bid. The Deposit, less the Independent Consideration  
shall be returned to Buyer within seven (7) business days of the close of the Property  
7 with the successful bidder.

8 In summary, the bid procedures are as follows:

- 9 • Buyer to deposit \$273,000 with Trustee within 3 business days of the mutual  
10 execution of the PSA. Deposit has been received by Trustee.
- 11 • Any overbidder must provide a nonrefundable deposit of 3% of \$9,100,000, which is  
12 a deposit of \$273,000 (same as Buyer), provide terms substantially similar to the  
13 PSA, and provide evidence of ability to close.
- 14 • Minimum overbid to be \$9,550,000,<sup>22</sup> and subsequent minimum increments for  
15 bidding shall be \$25,000.
- 16 • If it is not the successful bidder at auction, Buyer is entitled to a break-up fee of  
17 \$225,000, which is 2.47% of the initial bid price of \$9,100,000. Buyer will also be  
18 entitled to recover its due diligence costs not to exceed \$175,000. The \$175,000  
19 reimbursement plus the \$225,000 break-up fee are collectively referred to as the  
20 Break Up Fee.
- 21 • Buyer may only be entitled to the Break Up Fee if it waives all contingencies, has  
22 completed its due diligence, and is a ready, willing, and able buyer on the sale hearing  
23 date.<sup>23</sup>

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26 <sup>22</sup> The due diligence costs are not anticipated to exceed \$175,000. The successful bidder, if not Buyer, will be  
27 entitled to a credit in an amount equal to the difference between Buyer's actual due diligence costs and  
\$175,000. For example, if the due diligence costs are \$125,000, and Buyer is not the successful bidder, the  
winning bidder will be entitled to receive a \$50,000 credit against the purchase price.

28 <sup>23</sup> Because drilling by Miller has not commenced, Buyer has not yet waived its contingencies. The Trustee  
will provide an update to the Court no later than the hearing date.

- If there is an overbid of at least \$9,550,000, Buyer may use the Break Up Fee as a cash credit against its bid, provided that it is the successful/highest bidder.
- Buyer agrees that its last bid, if unsuccessful, will serve as the back-up bid.
- Trustee has sole discretion to determine the “best bid” for the Live Oak Property.

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